IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1822 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GUJARAT STATE FINANCIAL CORPORATION - Petitioner(s)

Versus

SMALL INDUSTRIES DEVELOPMENT BANK OF INDIA & 1 - Respondent(s)

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Appearance :

MR AS VAKIL for Petitioner(s) : 1,
RULE NOT RECD BACK for Respondent(s) : 1,
MR SS PANESAR for Respondent(s) : 1,
RULE SERVED for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 22/11/2005

ORAL JUDGMENT

In this petition under Article 226/227 of the Constitution of India, the petitioner has prayed for an appropriate writ, direction or order quashing and setting aside the order dated 22nd December 2004 passed by the respondent No.2, i.e., Debt Recovery

Tribunal in O.A. No. 253 of 2004 filed by the respondent No.1 as well as the order dated 24th January 2005 passed by the said Tribunal in O.A. No. 253/2004.

2. While admitting the present Special Civil Application, the learned Single Judge of this Court [Coram: Shri Jayant Patel, J.], in paragraph 7, ordered as under;

> Rule, returnable on 30th March, 2005.
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> The petitioner shall comply with the statement made by the learned counsel appearing for the petitioner to furnish the details as ordered by the Tribunal in terms of Para 7(B) within period of three months from today and, therefore, the ad-interim order passed by the Tribunal in terms of Para. 7(B) shall remain suspended till then only i.e. For a period of 3 months from today. By further interim order, the operation and implementation of the order passed by the Tribunal dated 22nd December, 2004 vide Direction No.3 shall only remained stayed.
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> It is made clear that the proceedings of the Tribunal of O.A. No. 253 of 2004 are not stayed and it will be open to the Tribunal to proceed for hearing of the interim application and/or original application as the case may be in accordance witih law and the contentions of both the sides shall remain open."

3. It appears from the record that pursuant to the said order the petitioner did submit the statement as required for the period upto March 2005

and a grievance is made on behalf of respondent No.1 that the petitioner has not complied with the direction issued by this Court in order dated 11th February 2005 and has not submitted monthly statement as required for the period after 1.4.2005. Shri Mihir Thakore, learned Senior Advocate appearing with Shri A.S. Vakil, learned advocate for the petitioner has tendered an unconditional apology and has submitted that there were reasons beyond control of the petitioner due to which they could not submit the statement as required for the period after 1.4.2005 and that the statement for the period from 1st April, 2005 to 31st December 2005 would be submitted within 15 days, i.e., on or before 5.12.2005 and for every succeeding month the details/statement would be submitted within the period of first 5 days of the last date of the concerned month. The petitioner has also produced one undertaking signed by one Jagdish Padmakant Joshipura, General Manager of the Gujarat State Financial Corporation to the aforesaid effect which is directed to be taken on record. The petitioner is directed to comply with the same. At this stage, Shri Panesar, learned advocate appearing for the respondent No.1 has submitted that even the details/statement which are furnished by the petitioner are not in consonance with the interim order passed by the Debt Recovery Tribunal. Shri Mihir Thakore, learned Senior Advocate has submitted that no such grievance has been made by the respondent No.1 till date. It will be open for the respondent No.1 to move an appropriate application

before the Debt Recovery Tribunal to make such grievance which may be considered by the Debt Recovery Tribunal in accordance with law and on merits.

4. Shri Thakore, learned Senior Advocate has prayed to make suitable observation with regard to publication of interim order and/or any order passed by the Tribunal in newspapers by the Bank so that ultimately it may not affect the credibility of the petitioner and/or against whom order is passed.

5. Without considering the larger question which may be decided in an appropriate case, it is hoped that the respondent Bank should take care in future to see that the actual text of an order only should be published, and should ensure that by publishing any order in newspaper the credibility of the petitioner and/or any institution against whom an order is passed is not likely to be affected.

6. With this hope and trust, the present Special Civil Application is disposed of. It will be open for the parties to move appropriate application before the Debt Recovery Tribunal for early disposal of the Original Application which may be considered by the Tribunal if moved considering its own Board.

Rule is discharged, however, with no order as to costs.

[M.R. Shah, J.]

RMR.